THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 26034 OF 2005

31st January, 2006

Between:

M.Sivaramakrishna and Others …Petitioners

A N D

1.Mandal Revenue Officer, Keesara Mandal and Others

….Respondents

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 26034 OF 2005

O R D E R :

1. When WPMP No. 33453 of 2005 came up for consideration, with the consent of the parties, writ petition itself is taken up for hearing.

2. This writ petition has been filed by the petitioners who are five in number assailing

the action of the Mandal Revenue Officer in issuing Proceeding No. B/1217/2005-4, dated 17-6-2005 whereby and where under resumption of the lands in possession of the petitioners have been ordered.

3. The land bearing Survey Nos. 360 admeasuring Ac.1-00 originally belonged to one Bakkaiah. The said land was acquired by the Government for the purpose of construction of Zilla Parishad High School. Pattadar was given Ac.2-30 cents in Survey No.291/3, of Nagaram village, in lieu of compensation payable for the acquired land. The legal representatives of Bakkaiah namely Kondali Bal Reddy and others submitted application before the Mandal Revenue Officer, seeking resumption of the lands from the possession of the petitioners and restoration of the same in their favour. The Mandal Revenue Officer conducted enquiry on the said application and recorded a finding that the provisions of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977 are not applicable to the lands in question. For better appreciation I may refer relevant portion of the order passed by the Mandal Revenue Officer on 31-7-1998 in File No.B/4150/95 and it is thus:

> "*I have verified the revenue records to know whether the above land was assigned to the petitioners in lieu of their patta land in Sy.No.360 acquired for construction of school building. But, no record is available to find out the above fact. As such, I have inspected the spot and enquired locally and according to my local enquiry it is a fact that the school building is constructed in Sy.No.360 which was patta land of petitioners.*
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> *'in view of the above, I have come to conclusion that the land in Sy.No.291/3 extent Ac.2-30 guntas was assigned to petitioners, in lieu of their patta in Sy.No.360, extent of Ac.1-00 was acquired for construction of school building. As such the provisions of the Act 9 of 1977 will not be attracted. As such the petitioners are not entitled for restoration of possession and the respondents are entitled for transfer of patta in their name. Hence, it is ordered to vacate patta in favour of respondents".*

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4. It appears the Mandal Revenue Officer issued show cause notice to the petitioners on 23-4-2005 initiating proceedings under the provisions of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977. The petitioners submitted their explanation on 19-05-2005. The Mandal Revenue Officer on considering the explanation passed order on 17-6-2005 resuming the land from the petitioners. The petitioners assailed the order passed by the Mandal Revenue

Officer by filing an appeal before the Revenue Divisional Officer. Since Revenue Divisional Officer has not passed orders on the appeal presented by the petitioners, the petitioners have approached this Court by invoking jurisdiction under Article 226 of the Constitution of India with the prayer stated supra.

5. Heard learned counsel for the Petitioners and learned Government pleader for Assignment appearing for the Respondents.

6. Learned counsel for the petitioners submits that the revenue authorities are attempting to interfere with the possession of the petitioners taking advantage of the order passed by the Mandal Revenue Officer. He further submits that the provisions of Act are not applicable to the land in question and therefore, the order passed by the Mandal Revenue Officer is not legal and proper.

7. Learned Government Pleader for assignment appearing for the respondents submits that the petitioners are not in possession of lands in question and they have already been dispossessed.

8. A fact remains the land in question came to be assigned to Bakkaiah in lieu of the compensation payable to him for the land acquired by the Government for the purpose of construction of Z.P. High School. I am not inclined to go into the merits of the case, since statutory appeal filed by the petitioners is pending before the Revenue Divisional Officer.

9. In the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition directing the Revenue Divisional Officer-2nd respondent to dispose of the appeal filed by the petitioners assailing the order passed by the Mandal Revenue Officer within three weeks from the date of receipt of this order and till disposal of the appeal, there shall be status quo with regard to the nature and possession of the land in dispute. No order as to costs.

Justice B.Seshasayana Reddy

31st January, 2006

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